

THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

FRANK KRAMMES TIMBER
HARVESTING, INC.,

Plaintiff

v.

LETOURNEAU ENTERPRISES, LLC,

Defendants.

3:18-CV-1914

(JUDGE MARIANI)

(Magistrate Judge Carlson)

FILED
SCRANTON

AUG 11 2023

PER 
DEPUTY CLERK

ORDER

AND NOW, THIS 11th DAY OF AUGUST, 2023, upon review of Magistrate

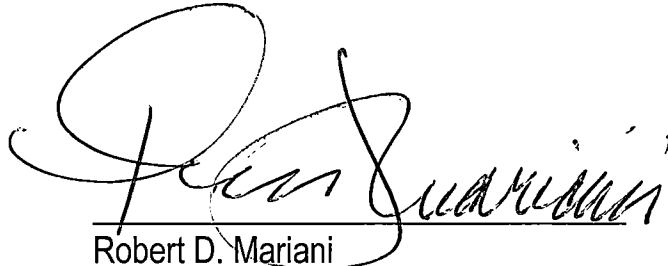
Judge Martin Carlson's Report and Recommendation ("R&R") (Doc. 40), Plaintiff's objections thereto (Doc. 41), and all relevant briefs, **IT IS HEREBY ORDERED THAT:**

1. The R&R (Doc. 40) is **ADOPTED** for the reasons set forth therein.
2. Plaintiff's Objections (Doc. 41) are **OVERRULED**.¹

¹ The Court agrees with Judge Carlson's legal and factual analysis in its entirety. The R&R is narrowly focused, and properly so, on the questions framed by the Court in its previous Memorandum Opinions (Docs. 22, 28) regarding Defendant's first and second motions to dismiss (Docs. 2, 25). Plaintiff's objections generally either reiterate arguments previously raised and considered by Judge Carlson, or attempt to introduce entirely new assertions or arguments not suitable for consideration at this stage. See *Piligian v. Icahn Sch. of Med. at Mount Sinai*, 490 F. Supp. 3d 707, 716 (S.D.N.Y. 2020). Further, several of Plaintiff's objections are mere disagreements with Judge Carlson's analysis and are unsupported by persuasive authority or argument.

Notably, this Court expressly indicated in a previous Memorandum Opinion that discovery was necessary to "provide clarity on the alleged benefits Defendants received," and strongly implied the same with respect to the timing of Plaintiff's yard development. (Doc. 28 at 13, 16.) It is evident that Plaintiff largely, if not completely, declined the opportunity to pursue this discovery. Instead, Plaintiff urges the Court to find a genuine dispute of material fact arising out of "inferences" in its favor, while, at the same time, plainly unable to point to evidence that supports its claims. (See, e.g., Doc. 41 at 5.) In summary, having reviewed the portions of the R&R to which Plaintiff objected, the Court independently reaches the same conclusions as Judge Carlson.

3. Defendant's Motion for Summary Judgment (Doc. 33) is **GRANTED**. Judgment is entered in favor of Defendant and against Plaintiff.



Robert D. Mariani
United States District Judge